

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

GREGORY WALKER (#236877)

CIVIL ACTION

VERSUS

TROY GRIMES

NO.: 16-00074-BAJ-RLB

RULING AND ORDER

Before the Court is the United States Magistrate Judge's **Report and Recommendation (Doc. 25)**, pursuant to 28 U.S.C. § 636(b)(1), on Defendant's unopposed **Motion for Summary Judgment (Doc. 16)**, and Defendant's unopposed **Motion to Dismiss (Doc. 15)**, both of which seek to dismiss all of the Plaintiff's 42 U.S.C. § 1983 claims against Defendant. (Doc. 13). The Magistrate Judge recommended that Defendant's **Motion for Summary Judgment (Doc. 16)** be granted, dismissing all of Plaintiff's claims asserted against Defendant and closing the case. The magistrate judge also recommended that the **Motion to Dismiss (Doc. 15)** be denied as moot.

The Report and Recommendation notified Plaintiff that, pursuant to 28 U.S.C. § 636(b)(1), he had fourteen (14) days from the date he received the Report and Recommendation to file written objections to the proposed findings of fact, conclusions of law, and recommendations therein. (Doc. 25 at p. 1). Plaintiff filed objections.¹

¹ Plaintiff raises two objections to the Report and Recommendation: 1) that the Magistrate Judge does not have the authority to write a report and recommendation dismissing the case and 2) that the recommendation that the

Having carefully considered the underlying Complaint, the instant motions, and related filings, the Court approves the Magistrate Judge's Report and Recommendation, and hereby adopts the findings of fact, conclusions of law, and recommendation.

Accordingly,

IT IS ORDERED that the **Magistrate Judge's Report and Recommendation (Doc. 25)** is **ADOPTED** as the Court's opinion herein.

IT IS FURTHER ORDERED that Defendants' **Motion for Summary Judgment (Doc. 16)** is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's claims against Defendant are **DISMISSED**.

claim be dismissed for Plaintiff's failure to plead facts that demonstrate a constitutional injury is attributable to the fact that the Plaintiff is a *pro se* litigant who was not appointed an attorney, and therefore, the Court should not dismiss the case on this procedural basis.

Regarding the first objection, it is well within the Magistrate Judge's authority to submit a report and recommendation that addresses the claims, as long as that report and recommendation is subject to the District Court's review. *See* 28 U.S.C. § 636 (1948). If the report and recommendation is adopted, it is the District Judge who ultimately adjudicates the underlying claims and defenses, not the Magistrate Judge.

As to the second objection, while it is true that *pro se* litigants are often treated more favorably than represented parties, the *pro se* litigant must still demonstrate facts that would entitle him to the requested relief, even if that *pro se* litigant fails to state exactly the type of relief he is entitled to. *See Castro v. United States*, 540 U.S. 375, 381-382 (2003). Here, Plaintiff failed to offer any facts that would entitle him to any forms of relief. Accordingly, Plaintiff's objections are overruled.

IT IS FURTHER ORDERED that the Defendant's **Motion to Dismiss (Doc. 15)** is **DENIED AS MOOT**.

Baton Rouge, Louisiana, this 17th day of February, 2017.



**BRIAN A. JACKSON, CHIEF JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**